



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60, 61, 63, and 70

[EPA-R08-OAR-2018-0299; FRL-9988-39-Region 8]

Approval of Recodification and Revisions to State Air Pollution Control Rules; North Dakota; Interim Approval of Title V Program Recodification and Revisions; Approval of Recodification and Revisions to State Programs and Delegation of Authority to Implement and Enforce Clean Air Act Sections 111 and 112 Standards and Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the “Agency”) is finalizing interim approval of revisions to the North Dakota operating permit program for stationary sources subject to title V of the Clean Air Act (CAA or the “Act”) and recodification of the State’s title V program under a new title of the North Dakota Administrative Code (NDAC). The EPA is also approving North Dakota’s revision and recodification of North Dakota’s programs for implementing and enforcing delegated requirements under CAA sections 111 and 112, and for carrying out a State Acid Rain Program under sections 401-406 of the Act as a portion of the operating permits program.

DATES: This rule is effective on March 15, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0299. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard

copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gregory Lohrke, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6396, *lohrke.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

This action also informs the public that on December 17, 2018, the EPA authorized delegation to implement and enforce CAA section 111 New Source Performance Standards (NSPS)¹ and section 112 National Emission Standards for Hazardous Air Pollutants (NESHAP), including Maximum Achievable Control Technology (MACT)² requirements within the State, excluding Indian country, exactly as the requirements were promulgated by the EPA (i.e., “straight delegation”). In authorizing the delegation of these authorities, the EPA’s letters also grant North Dakota eligibility for future “automatic delegation” of incorporated, unchanged federal requirements, without the need to request Agency approval, on a case-by-case basis. These approvals effect the transfer of North Dakota’s title V program administration, including administration of the state acid rain program, and delegated authority to implement and enforce CAA sections 111 and 112 requirements from the North Dakota Department of Health (NDDH)

¹ Monica Morales, Director, EPA Region 8 Air Program to Terry O’Clair, Director, Division of Air Quality, North Dakota Department of Health. “Automatic Delegation of Clean Air Act Section 111 Authorities and Responsibilities” December 17, 2018.

² Monica Morales, Director, EPA Region 8 Air Program to Terry O’Clair, Director, Division of Air Quality, North Dakota Department of Health. “Automatic Delegation of Clean Air Act Section 112 Responsibilities” December 17, 2018.

to the newly created North Dakota Department of Environmental Quality (NDDEQ or the “Department”). The EPA is finalizing these actions in accordance with sections 501-506, 111, 112, 401-416 of the Act.

I. Background

The background for this action is discussed in detail in our October 30, 2018 notice of proposed rulemaking (83 FR 54532). In that document we proposed to approve recodification and revisions to the North Dakota title V operating permits program on an interim basis.³ The proposed interim approval of North Dakota’s operating permit program included, as a portion, acceptance of the State’s recodification of regulations enabling the implementation of a State acid rain program under title IV of the Act. In that same notice, we also proposed approval of North Dakota’s revised and recodified programs for the implementation and enforcement of CAA section 111 and 112 standards and further proposed a straight delegation of authority to the State of North Dakota to administer certain standards under sections 111 (NSPS requirements) and 112 (NESHAP requirements) as they are incorporated unchanged from the Code of Federal Regulations (CFR) into the State’s administrative code. The notice of proposed rulemaking offered the public the opportunity to comment on these proposed program approvals and delegations of authority and the transfer of program authorities to NDDEQ.

³ For reference here and throughout today’s notice concerning the renumbering and recodification of NDCC and NDAC provisions relevant to the transfer of CAA authorities to the NDDEQ, see the document, “Crosswalk on Recodifications of Relevant NDCC and NDAC Sections,” available in the docket for today’s notice. For purposes of cross-referencing a recodified provision of the NDAC air pollution control rules with its previous version, we note that the recodification followed a consistent scheme: All rules previously codified as 33-15-xx-xx are now codified as 33.1-15-xx-xx. For example: All Title V Permit to Operate provisions previously codified under NDAC section 33-15-14-06 are now codified at corresponding subsections of NDAC section 33.1-15-14-06.

We received no comments on our proposed rulemaking action; therefore, we are finalizing all rulemaking actions, including previously unapproved amendments to North Dakota's title V rules as they were described in our proposed rulemaking document.⁴

II. Final Action

A. Interim Approval of the North Dakota Title V Program

The EPA is granting interim approval of the North Dakota operating permit program under 40 CFR 70.4(d) and CAA section 502(g). Additionally, as the State implements a title IV acid rain program through issuance and enforcement of title V operating permits, the EPA is also granting final approval of the transfer and recodification of North Dakota's acid rain program from the NDDH to the NDDEQ.⁵ The EPA is granting interim approval of the operating permit program as the program is revised and recodified in NDAC article 33.1-15 and as it had been submitted by the State, reviewed and proposed for approval in our previous rulemaking document.⁶ The EPA is granting interim approval because, although North Dakota's operating permit program meets minimum title V requirements and otherwise meets 40 CFR part 70 requirements for an operating permit program, as explained in the Attorney General's Opinion,⁷ the State's rules do not provide the full legal authority necessary for judicial review. This issue was explained in detail in our proposed rulemaking document and must be remedied before the

⁴ Our final approval includes previously unapproved amendments to North Dakota's title V permit program rules, as discussed in our proposal, 83 FR 54535; See also docket item, "Post 1999 Amendments to ND Title V Program," for details of the amendments the EPA is approving with this action.

⁵ The State's Acid Rain rules (NDAC 33.1-15-21) with an effective date of January 1, 2019, were submitted via email from Tom Bachman, North Dakota Department of Health, to Gregory Lohrke, EPA Region 8 Air Program on December 10, 2018.

⁶ 83 FR 54534—54537; Our approval also considers the following supplemental documents submitted by the State of North Dakota after our proposal: "Addendum to August 16, 2018 Attorney General's Opinion Operating Permits Program." December 12, 2018; "Supplement to the Attorney General Statements Relating to Programs Being Transferred to the North Dakota Department of Environmental Quality." October 23, 2018; and NDAC 33.1-15-14-06, "Title V Permit to Operate," and 33.1-15-23-04, "Major Source Permit to Operate Fees." Both effective on January 1, 2019. Submitted via electronic correspondence by Tom Bachman, North Dakota Department of Health to Gregory Lohrke, EPA Region 8 Air Program. December 10, 2018.

⁷ "Attorney General's Opinion Operating Permits Program." August 16, 2018.

EPA may grant final full approval of North Dakota’s revised and recodified title V program (40 CFR 70.4(e)(3)). Specifically, the State’s forthcoming rules must provide that if the final permit action being challenged is the Department’s failure to take final action, a petition for judicial review may be filed at any time before the Department denies the permit or issues the final permit; and that where petitions for judicial review are based solely on grounds arising after the 30-day deadline for judicial review, such petitions may be filed no later than 30 days after the new grounds for review arise. Upon notice of remedy of this issue from the State, receipt of effective State rules and an amended Attorney General’s Opinion certifying complete legal authority to grant judicial review as required by 40 CFR 70.4(b)(3)(x)—(xii), the EPA intends to propose full approval of North Dakota’s operating permit program. Interim program approval will expire on March 19, 2020 and the State is required to “submit to the EPA changes to the program addressing the deficiencies specified in the interim approval no later than 6 months prior to the expiration of the interim approval.”⁸

For further details and background regarding the interim approval of North Dakota’s revised operating permits program and the transfer of state operating permits program implementation and enforcement authority to the NDDEQ, please reference the proposed rulemaking document associated with this action.⁹

B. NSPS Program Approval and Delegations

The EPA has determined that the revisions to the North Dakota CAA section 111 program are adequate and effective for implementation and enforcement of NSPS requirements and is approving the recodification of the State’s program and incorporated federal NSPS

⁸ 40 CFR 70.4(f)(1).

⁹ 83 FR 54534-54537.

requirements under a new title and chapter of the NDAC.¹⁰ On December 17, 2018, the EPA provided notice to North Dakota of approval of both a straight delegation of authority to implement and enforce all federal NSPS requirements incorporated unchanged into state regulations, and approval of automatic delegation of authority to implement and enforce federal NSPS requirements incorporated unchanged at a future date without need for case-by-case approvals. This notice of approval in the *Federal Register* finalizes the EPA's determination that the North Dakota section 111 program as it is to be administered by the NDDEQ is adequate for the delegated implementation and enforcement of federal NSPS requirements incorporated unchanged into NDAC 33.1-15-12 before this rulemaking action, as well as adequate for the prospective, automatic delegation of federal NSPS requirements incorporated unchanged into that NDAC chapter in the future.

The EPA's delegation letter and other supporting materials for today's action may be found in the docket for this final rule at <http://www.regulations.gov>. A current summary of NSPS delegations to North Dakota is posted under the "Delegations of Authority" link at <http://www.epa.gov/region8/air-program>. Further delegation updates will be provided through this webpage on a quarterly basis to notify the public of the current NSPS delegation status to the State.

C. NESHAP Program Approval and Delegations

The EPA has determined that the revisions to the North Dakota section 112 program are adequate and effective for implementation and enforcement of NESHAP requirements and is approving the recodification of the State's program and incorporated federal NESHAP

¹⁰ NDAC chapter 33.1-15-12, Standards of Performance for New Stationary Sources; and related fee provisions NDAC §§ 33.1-15-23-01, 33.1-15-23-02, 33.1-15-23-03, effective January 1, 2019.

requirements under a new title and chapter of the NDAC.¹¹ On December 17, 2018, the EPA provided notice to North Dakota of approval of both a straight delegation of authority to implement and enforce all federal NESHAP requirements incorporated unchanged into state regulations, and approval of automatic delegation of authority to implement and enforce federal NESHAP requirements incorporated unchanged at a future date without need for case-by-case approvals. This notice of approval in the *Federal Register* finalizes the EPA's determination that the North Dakota section 112 program as it is to be administered by the NDDEQ is adequate for the delegated implementation and enforcement of federal NESHAP requirements incorporated unchanged into NDAC chapters 33.1-15-13 and 33.1-15-22 before this rulemaking action, as well as adequate for the receipt of prospective, automatic delegation of federal NESHAP requirements incorporated unchanged into NDAC chapters 33.1-15-13 and 33.1-15-22 in the future.

The EPA's delegation letter and other supporting materials for today's action may be found in the docket for this final rule at <http://www.regulations.gov>. A current summary of NESHAP delegations to North Dakota is posted under the "Delegations of Authority" link at <http://www.epa.gov/region8/air-program>. Further delegation updates will be provided through this webpage on a quarterly basis to notify the public of current NESHAP delegation status to the State.

D. Effective Date of Program Approvals and Delegations of Authority

Based on our conversations with the State, we determined a specific date for when the NDDEQ rules and agency become fully effective under federal law. All revisions to the State's

¹¹ NDAC chapters 33.1-15-13, National Emission Standards for Hazardous Air Pollutants and 33.1-15-22, National Emission Standards for Hazardous Air Pollutants for Source Categories; effective January 1, 2019; and related fee provisions NDAC §§ 33.1-15-23-01, 33.1-15-23-02, 33.1-15-23-03, effective January 1, 2019.

title V operating permit program, section 111 and 112 programs and the State acid rain program would be federally enforceable as of the effective date of EPA's approval of the respective revision on March 15, 2019, and codifications of those regulations, with the exception of the EPA's grant of interim approval to the operating permits program. The EPA's understanding is that the State plans to rely on the date when the EPA signs the final notice for purposes of notifying the State legislature that the EPA has approved these revisions, which will provide for the transfer of authority from NDDH to NDDEQ to be effective under State law. The EPA also understands that there are some programs that will not be required to be a part of this approval. Thus, prior to the effective date of this approval, the EPA understands that the State intends to take the necessary additional steps as specified in S.L. 2017, ch. 199, Section 1, to ensure that NDDEQ rules and the NDDEQ would become federally enforceable on the effective date of the EPA's approval and codification of the operating permit, NSPS, MACT/NESHAP and acid rain programs. Unless and until the NDDEQ rules and agency become fully effective under federal law, for purposes of federal law the EPA recognizes the State's program as currently approved under the North Dakota Department of Health.¹²

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve:

¹² As explained in this rulemaking action's corresponding proposed rule, the EPA's interim approval of North Dakota's transfer of its Title V Program and State Acid Rain Program and the Agency's delegation to North Dakota of authority for NESHAP, MACT and NSPS from the Department of Health to the Department of Environmental Quality does not extend to Indian country as defined in 18 U.S.C. 1151. Indian country generally includes (1) lands within the exterior boundaries of the following Indian reservations located within North Dakota: The Fort Berthold Indian Reservation, the Spirit Lake Reservation, the Standing Rock Sioux Reservation, and the Turtle Mountain Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151. The EPA, or eligible Indian tribes, as appropriate, will retain responsibilities under CAA Sections 501-506, 111, 112, 401-416 for air quality in Indian country. This footnote and our final notice include the Acid Rain program and respective CAA Sections, which were referenced elsewhere in the proposal and inadvertently not included in footnote 4 in our proposal (83 FR 54533-54534).

- A state permit program submittal that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7661a(d); 40 CFR 70.1(c), 70.4(i). Thus, in reviewing permit program submittals, the EPA's role is to approve state choices, provided they meet the criteria of the CAA and the criteria, standards and procedures defined in 40 CFR part 70;
- A state acid rain program as a component of the state operating permit program submittal that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7651g(a), 7661e(b); 40 CFR part 72, subpart G. Thus, in reviewing state acid rain program submittals, the EPA's role is to approve state choices, provided they meet, and do not alter, the criteria of the CAA and implement the requirements, standards and procedures defined in 40 CFR parts 70 and 72—78;
- A state program for receiving delegated authority to implement and enforce emission limitations for new stationary sources subject to section 111 if such program complies with the provisions of the Act and applicable federal regulations. 42 U.S.C 7411(c). Thus, in reviewing section 111 program submittals, the EPA's role is to approve state choices, provided they meet the criteria of the CAA and implement the requirements, standards and procedures defined in 40 CFR part 60; and
- A state program for receiving delegated authority to implement and enforce emission standards and other requirements for air pollutants subject to section 112 if such program complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7412(l); 40 CFR part 63, subpart E. Thus, in reviewing section 112 program submittals, the EPA's role is to approve state choices, provided they meet the criteria of the CAA and the criteria, standards and procedures defined in 40 CFR parts 61 and 63.

Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because Operating Permits Program approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

List of Subjects

40 CFR Part 60

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New source performance standards, Delegation of authority.

40 CFR Part 61

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, National emission standards for hazardous air pollutants, Delegation of authority.

40 CFR Part 63

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, National emission standards for hazardous air pollutants, Maximum achievable control technology, Delegation of authority.

40 CFR Part 70

Environmental protection, Air pollution control, Intergovernmental relations, Operating permit program, State acid rain program, Title V.

Dated: December 20, 2018.

Douglas Benevento,
Regional Administrator,
Region 8.

Title 40 of the CFR is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provisions

2. Section 60.4 is amended by revising paragraph (b)(36) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(36) State of North Dakota, North Dakota Department of Environmental Quality, 918 East Divide Avenue, Bismarck, ND 58501-1947.

Note: For a table listing Region VIII's NSPS delegation status, see paragraph (c) of this section.

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PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

3. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart A—General Provisions

4. Section 61.04 is amended by revising paragraphs (b)(36) and (c)(8) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(36) State of North Dakota, North Dakota Department of Environmental Quality, 918 East Divide Avenue, Bismarck, ND 58501-1947.

Note: For a table listing Region VIII's NESHAP delegation status, see paragraph (c) of this section.

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(c) * * *

(8) The most current delegation status table for National Emissions Standards for Hazardous Air Pollutants for Region VIII can be found online at <http://www.epa.gov/region8/air-program>. The following is a table indicating the delegation status of National Emissions Standards for Hazardous Air Pollutants in Region VIII. The recodification and delegation for North Dakota's August 6, 2018 submittal is effective as of March 15, 2019, as detailed in EPA's delegation letter of December 17, 2018.

Region VIII—Delegation Status of National Emissions Standards for Hazardous Air Pollutants¹

Subpart	CO	MT	ND	SD	UT ²	WY
A General Provisions	*	*	*	*	*	
B Radon Emissions from Underground Uranium Mines					*	
C Beryllium	*	*			*	
D Beryllium Rocket Motor Firing	*	*			*	
E Mercury	*	*			*	
F Vinyl Chloride	*	*			*	
H Emissions of Radionuclides other than Radon from Department of Energy Facilities						
I Radionuclide Emissions from Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not covered by Subpart H						
J Equipment Leaks (Fugitive Emission Sources) of Benzene	*	*	*		*	

K Radionuclide Emissions from Elemental Phosphorus Plants						
L Benzene Emissions from Coke By-Product Recovery Plants		*			*	
M Asbestos	*	*	*	*	*	* ³
N Inorganic Arsenic Emissions from Glass Manufacturing Plants		*			*	
O Inorganic Arsenic Emissions from Primary Copper Smelters		*			*	
P Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities		*			*	
Q Radon Emissions from Department of Energy Facilities					*	
R Radon Emission from Phosphogypsum Stacks					*	
T Radon Emissions from the Disposal of Uranium Mill Tailings					*	
V Equipment Leaks (Fugitive Emission Sources)		*	*		*	
W Radon Emissions from Operating Mill Tailings					*	
Y Benzene Emissions from Benzene Storage Vessels		*			*	
BB Benzene Waste Operations		*			*	
FF Benzene Waste Operations		*	*		*	

*Indicates approval of delegation of subpart to state

¹Specific authorities which may not be delegated include, but are not limited to §§61.04(b) and (c), 61.05(c), 61.11, 61.12(d), 61.13(h)(1)(ii), 61.14(d), 61.14(g)(1)(ii), 61.16, 61.112(c), 61.164(a)(2) and (3), 61.172(b)(2)(ii)(B) and (C), 61.174(a)(2) and (3), 61.242-1(c)(2), 61.244, and all authorities listed as not delegable in each individual subpart delegated to the state.

²Indicates approval of National Emissions Standards for Hazardous Air Pollutants as part of the State Implementation Plan (SIP) with the exception of the radionuclide NESHAP subparts B, Q, R, T and W which were approved through section 112(l) of the Clean Air Act.

³Delegation only for asbestos demolition, renovation, spraying, manufacturing, and fabricating operations, insulating materials, waste disposal for demolition, renovation, spraying, manufacturing and fabricating operations, inactive waste disposal sites for manufacturing and fabricating operations, and operations that convert asbestos-containing waste material into nonasbestos (asbestos-free) material.

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PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

5. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

6. Section 63.99 is amended by revising paragraph (a)(35) to read as follows:

§ 63.99 Delegated Federal authorities.

* * * * *

(a) * * *

(35) *North Dakota.* (i) The North Dakota Department of Agriculture is delegated the authority to implement and enforce the provisions of 40 CFR part 68 at facilities with an anhydrous ammonia storage capacity of ten thousand pounds or more that is intended to be used as fertilizer or in the manufacturing of a fertilizer within North Dakota and that are subject to the requirements of 40 CFR part 68, in accordance with the final rule, dated December 30, 2013.

(ii) The most current delegation status table for National Emission Standards for Hazardous Air Pollutants for Source Categories in Region VIII can be found online at <http://www.epa.gov/region8/air-program>.

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PART 70—STATE OPERATING PERMIT PROGRAMS

7. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

8. In appendix A to part 70, the entry for North Dakota is amended by adding paragraph (d) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

North Dakota

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(d) The State of North Dakota submitted on August 6, 2018, operating permit program revisions in a submittal package titled, “Title V Permit to Operate MACT, NESHAPs and NSPS Programs for Department of Environmental Quality Division of Air Quality.” This submittal package included a request from the North Dakota governor to transfer authority to implement and enforce the operating permit program from the North Dakota Department of Health to the North Dakota Department of Environmental Quality. The recodified North Dakota title V operating permits program is codified in N.D. Admin. Code sections 33.1-15-14-06, 33.1-15-23-04, and 33.1-15-21. North Dakota subsequently submitted on August 16, 2018 the, “Attorney General’s Opinion Operating Permits Program,” supplemented on December 12, 2018, with an “Addendum to August 16, 2018 Attorney General’s Opinion Operating Permits Program,” stating that the laws of the State provide adequate legal authority to carry out all aspects of the program; interim approval effective on March 15, 2019; interim approval expires on March 19, 2020.

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